

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

LORNA MOSETI, #77629-083,
Defendant.

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3:11-CR-0017-M-1

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that Defendant's motion for relief from judgment under Fed. R. Civ. P. 60(b) [Doc. 114] is **DENIED**. Insofar as Defendant seeks relief under 28 U.S.C. § 2255, it is ORDERED that her motion be **DISMISSED without prejudice** for want of jurisdiction and for failure to obtain prior authorization from the United States Court of Appeals for the Fifth Circuit to file a successive section 2255 motion.

The Clerk of the Court is **directed** to open for indexing purposes a new section 2255 case (nature of suit 510 directly assigned, per Special Order 3-250, to the same District Judge and Magistrate Judge as the criminal case), and to close the same on the basis of this order.

The Court prospectively **CERTIFIES** that any appeal of this action would not be taken in good faith. See 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this finding, the Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation. See Baugh v. Taylor, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on

the Findings and Recommendation, the Court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983).¹ In the event of an appeal, Defendant may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. See Baugh, 117 F.3d at 202; FED. R. APP. P. 24(a)(5).

SO ORDERED this 22 day of September, 2014.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS

¹Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith.